

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)
)
CHARLES WALSH SR) No. 08 B 24490
CYNTHIA WALSH. Debtors.) Chapter 7
) Honorable BRUCE W. BLACK
) (Joliet)

NOTICE OF MOTION

To:
SERVICE VIA ELECTRONIC PROCESS
United States Trustee's Office
219 South Dearborn Street
Suite 73
Chicago, Illinois 60603

C.David Ward
Illini Legal Services Chartered
2756 Route 34
Oswego, Illinois 60543
Attorney for debtor

SERVICE BY MAIL
Charles & Cynthia Walsh
404 Knights Bridge Court
Oswego, Illinois 60543

Sandra Franco
Burke & White
5330 Main Street, Suite 200
Downers Grove, Illinois 60515
Attorney For State Bank Of Countryside

Trinity Custom Builders Inc
Attention: Registered Agent
Charles Walsh
404 Knights Bridge Court
Oswego, Illinois 60543

State Bank of Countryside
6734 Joliet Road
Countryside, Illinois 60525

See attached notice to creditors

PLEASE TAKE NOTICE that on May 1, 2009 at 9:15 a.m or as soon thereafter as counsel may be heard, I shall appear before the Honorable Bruce W. Black, or any judge sitting in his stead, at the Will County Court Annex Building, 57 North Ottawa Street, Room 201, Joliet, Illinois and present the attached Motion Of Trustee To Authorize Sale Of Real Estate and for other Relief.

CERTIFICATE OF SERVICE

THE UNDERSIGNED states and certifies that he caused a true and correct copy of above Motion to be served upon the above parties on the service list by placing same in the United States mail at 1 North LaSalle Street, Chicago, Illinois, proper postage affixed, on April 23, 2009 to the debtors, State Bank of Countryside, Trinity Custom Builders Inc and Burke & White and by serving all other parties of record by electronically filing same on said date.

/s/ Michael G. Berland Trustee
Michael G.Berland

Michael G. Berland #0187569
1 North LaSalle Street
Suite 1775
Chicago, Illinois 60602
312-855-1272

CERTIFICATION OF NOTICE TO CREDITORS

I certify that on April 17, 2009, I sent, postage pre-paid, the Notice to all of the following creditors relating to the Trustee's Motion To Authorize Sale Of Certain Real Estate Free And Clear Of All Liens And For Other Relief

/s/Michael G. Berland, trustee

United States Trustee's Office
219 South Dearborn Street
Suite 73
Chicago, Illinois 60603

C.David Ward
Illini Legal Services Chartered
2756 Route 34
Oswego, Illinois 60543

Charles & Cynthia Walsh
404 Knights Bridge Court
Oswego, Illinois 60543

Sandra Franco
Burke & White
5330 Main Street, Suite 200
Downers Grove, Illinois 60515

Trinity Custom Builders Inc
Attention: Registered Agent
Charles Walsh
404 Knights Bridge Court
Oswego, Illinois 60543

State Bank of Countryside
6734 Joliet Road
Countryside, Illinois 60525

Chase
POB Box 9001020
Louisville, Kentucky 40290

Chase Manhattan Mortgage
3415 Vision Drive
Columbus, Ohio 43219

DuPage Credit Union
1515 Bond Street
Naperville, Illinois 60563

Discover
POB 15316
Wilmington, Delaware 19850

DVC Timeshare
200 Celebration Place
Celebration, Florida 34747

Advanta
POB 30715
Salt Lake City, Utah 84130

American Express
POB 279871
Fort Lauderdale, Florida 33329

Bank Of America
POB 17054
Wilmington, Delaware 19884

Citi
POB Box 6241
Sioux Falls, South Dakota 57117

First Equity
POB 84075
Columbus, Georgia 31901

HSBC Bank
POB 5253
Carol Stream, Illinois 60197

Nicor Gas
POB 418
Aurora, Illinois 60568

State Bank Of Countryside
6734 Joliet Road
Countryside, Illinois 60525

Ticor Title Insurance Company
6250 West 95th Street
Oak Lawn, Illinois 60453

Washington Mutual Bank
POB Box 2445
Chatsworth, California 91313

Wells Fargo
POB 348750
Sacramento, California 95834

Will County Treasurer
302 North Chicago Street
Joliet, Illinois 60432

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)
)
CHARLES WALSH SR) No. 08 B 24490
CYNTHIA WALSH, Debtors.) Chapter 7
) Honorable BRUCE W. BLACK
) (Joliet)

MOTION TO AUTHORIZE SALE OF CERTAIN REAL ESTATE UNDER SECTION 363
OF THE BANKRUPTCY CODE AND FOR OTHER RELIEF

Now comes the Trustee, Michael G. Berland, and for his Motion To Sell Certain Real Estate And For Other Relief states as follows:

1. The undersigned is the Chapter 7 Trustee of this case. The debtors, Charles & Cynthia Walsh are each 50% shareholders of Trinity Custom Builders Inc. ("Trinity") The Trustee is now the owner of Trinity Custom Builders Inc. All creditors of Trinity are also creditors of the debtors in this case.

2. Trinity was in the business of constructing new homes. One of the homes owned by Trinity Custom Builders Inc. was property commonly known as 12421 Foxborough Drive, Mokena, Illinois ("Property") The Property has a mortgage on it which is held by the State Bank Of Countryside. ("Bank") the Bank has filed and continued a Motion To Lift Stay with respect to the Property. The Bank has agreed with the Trustee, subject to the approval of the bankruptcy court, to accept less than the full amount of their indebtedness and for the Trustee to receive the sum of \$27,500 after the payment of all necessary and usual

closing expenses (even though the Bank will not be paid in full on its mortgage from the sale of this Property) and with the Bank to receive the remainder of the net proceeds from the sale of the Property. (The agreement between the Trustee and the Bank is contained in Exhibit A, which is a letter from the attorney for the Bank to the Trustee and a fax memorandum from the Trustee to the attorney for the Bank)

3. The Trustee has received a Contract for the sale of the Property for \$715,000. (a copy of the Contract & Rider is attached collectively as Exhibit B) Since unsecured creditors will receive some dividend in this case if the sale of the property is completed, The Trustee believes that the sale of the Property is in the best interest of all creditors, both the Bank and unsecured creditors. If the sale of the Property is not completed, the Trustee has no alternative but to file a No-Asset Report and no unsecured creditor will receive anything.

4. Notice was sent to creditors on April 17, 2009. (a copy of the Notice is attached as Exhibit C) The Trustee requests that the Notice be approved as to form and substance. The Trustee requests that the notice period for creditors be shortened from twenty days to fourteen days so that the sale of the Property can be completed and a title commitment ordered.

5. The Trustee requests approval, pursuant to Section 363 of the Bankruptcy Code, to sell the Property free and clear of all liens with any liens to attach to the proceeds.

6. The Trustee is further requesting approval to pay from the gross proceeds of sale without further court order at closing all necessary closing expenses at the closing, including but not limited to payment of the balance of the first mortgage on the Property less the \$27,500 that the Bank has agreed to pay the Trustee, title insurance, survey, well inspection, tax prorations, recording fees etc.

7. The Trustee is requesting authorization to pay the realtor, Century 21 Pro Team, who employed by the Trustee a commission of 5% on the first \$500,000 of the sale price and 4% on any amount in excess of \$500,000. The Trustee is requesting authorization to pay the realtor her commission from the proceeds of the sale without further court authorization.

8. The Trustee is requesting court authorization to execute all necessary documents in connection with the sale of the Property.

9. Since the Trustee is selling the property of Trinity, which he owns a result fo the debtors filing bankruptcy, the Trustee requests that corporate resolution of Trinity be executed by the debtors authorizing the sale of the Property under the Contract and that one of the debtors be authorized to execute a Quitclaim Deed for the Property to effectuate its sale. Furthermore, if the tittle company should require further action, the Trustee requests that he be authorized to hold all such corporate meetings of Trinity as he deems necessary, including

but not limited to appointing himself an officer, authorizing the sale of the Property, executing any necessary documents to effectuate the sale of the Property etc

WHEREFORE, the Trustee, Michael G. Berland, prays for the following relief:

- a. that this Court approve the Contract and Rider attached as Exhibit B, which provides for the sale of the Property for \$715,000 free and clear of any interest in the Property;
- b. that the Notice attached as Exhibit C be approved as to form and substance and that the time for notice to creditors be shortened as set forth herein;
- c. requesting approval to pay from the gross proceeds of sale without further court order at closing all necessary closing expenses at the closing, including but not limited to payment of the balance of the first mortgage on the Property less the \$27,500 that the Bank has agreed to pay the Trustee, title insurance, survey, well inspection, tax prorations, recording fees etc.
- d. authorization to pay the realtor employed by the Trustee a commission of 5% on the first \$500,000 of the gross sale price and 4% on any balance in excess of \$500,000. The Trustee is requesting authorization to pay the realtor her commission from the proceeds of the sale without further court authorization;
- e. that the Trustee be authorized to execute all necessary documents in connection with the sale of the property;

f. for authority for all actions requested in paragraph 9 of this Motion;

g. such other relief as this court deems just and equitable.

Respectfully submitted
Charles & Cynthia Walsh, debtors

By: /s/Michael G. Berland, trustee